

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Case No.: 2:20-cv-00562-WGC

4 EARNEST S. ROWE,

5 Plaintiff

Order

Re: ECF No. 6

6 v.

7 KILOLO KIJAKAZI,
Acting Commissioner of
Social Security Administration,

8 Defendant
9

10 Plaintiff, through counsel, filed this complaint for review of a Social Security Disability
11 (DIB) or Supplemental Security Income (SSI) decision against then Commissioner of Social
12 Security Administration Andrew Saul¹. (ECF No. 1.) The Complaint included a summons to
13 Andrew Saul at the Social Security Administration, 6401 Security Boulevard, 1100 West High
14 Rise, Baltimore, Maryland 21235. (ECF No. 1-2.) The Clerk issued the summons. (ECF No. 3.)

15 On May 29, 2020, Plaintiff filed a return indicating that Andrew Saul was served by
16 sending the summons and complaint by First Class mail, presumably to the address listed on the
17 summons. (ECF No. 4.)

18 On August 31, 2021, Plaintiff filed a Motion for Clerk's Entry of Default under Federal
19 Rule of Civil Procedure 55(b)(2). (ECF No. 6.)

20 Preliminarily, Plaintiff seeks *Clerk's* entry of default, but this is governed by Federal
21 Rule of Civil Procedure 55(b)(1), not 55(b)(2), as Plaintiff's motion suggests.

22
23 ¹ Andrew Saul has been succeeded by Acting Commissioner of Social Security Administration
Dr. Kilolo Kijakazi, who is automatically substituted under Federal Rule of Civil Procedure
25(d).


1 In any event, the Commissioner has not been properly served pursuant to Federal Rule of
2 Civil Procedure 4(i).

3 Therefore, Plaintiff's motion for clerk's entry of default (ECF No. 6) is **DENIED**.

4 Plaintiff has **30 days** from the date of this order to file a proof of service indicating
5 *proper* service on the Commissioner. A failure to do so will result in dismissal of this action
6 without prejudice under Federal Rule of Civil Procedure 4(m).

7 **IT IS SO ORDERED.**

8 Dated: September 1, 2021

9 
10 William G. Cobb
United States Magistrate Judge